

14), including the achievement of effective coordination and maximum uniformity within the agency and within the Executive Branch of the Government in the application of title VI and this regulation to similar programs and in similar situations.

### Subparts B–D [Reserved]

### Subpart E—Nondiscrimination on the Basis of Age in FEMA Program Activities Receiving Federal Financial Assistance

AUTHORITY: Age Discrimination Act of 1975, as amended, 42 U.S.C. 26101 *et seq.* (45 CFR part 90).

SOURCE: 55 FR 23078, June 6, 1990, unless otherwise noted.

#### GENERAL

#### § 7.910 What is the purpose of the Age Discrimination Act of 1975?

The Age Discrimination Act of 1975 (the “Act”), as amended, is designed to prohibit discrimination on the basis of age in programs or activities receiving Federal financial assistance. The Act also permits federally-assisted programs and activities, and recipients of Federal funds, to continue to use certain age distinctions and factors other than age which meet the requirements of the Act and this regulation.

#### § 7.911 What is the purpose of FEMA’s age discrimination regulation?

The purpose of this regulation is to set out FEMA’s policies and procedures under the Age Discrimination Act of 1975 and the general governmentwide regulations, 45 CFR part 90. The Act and the general regulations prohibit discrimination on the basis of age in programs or activities receiving Federal financial assistance. The Act and the general regulations permit federally-assisted programs, activities, and recipients of Federal funds, to continue to use age distinctions and factors other than age which meet the requirements of the Act and its implementing regulations.

#### § 7.912 To what programs does this regulation apply?

(a) The Act and this regulation apply to each FEMA recipient and to each program or activity operated by the recipient which receives or benefits from Federal financial assistance provided by FEMA.

(b) The Act and this regulation do not apply to:

(1) An age distinction contained in that part of a Federal, State or local statute or ordinance adopted by an elected, general purpose legislative body which:

- (i) Provides any benefits or assistance to persons based on age; or
- (ii) Establishes criteria for participation in age-related terms; or
- (iii) Describes intended beneficiaries or target groups in age-related terms.

(2) Any employment practice of any employer, employment agency, labor organization, or any labor-management joint apprenticeship training program, except for any program or activity receiving Federal financial assistance for public service employment under the Job Training Partnership Act (29 U.S.C. 150, *et seq.*)

#### § 7.913 Definition of terms used in this regulation.

As used in this regulation, the term *Act* means the Age Discrimination Act of 1975 as amended (title III of Pub. L. 94-135).

*Action* means any act, activity, policy, rule, standard, or method of administration; or the use of any policy, rule, standard or method of administration.

*Age* means how old a person is, or the number of years from the date of a person’s birth.

*Age distinction* means any action using age or an age-related term.

*Age-related term* means a word or words which necessarily imply a particular age or range of ages (for example, *children*, *older persons*, but not *student*).

*Agency* means the Federal Emergency Management Agency.

*Director* means the Director of the Federal Emergency Management Agency.

*Federal financial assistance* means any grant, entitlement, loan, cooperative

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agreement, contract (other than a procurement contract or a contract of insurance or guaranty), or any other arrangement by which the agency provides or otherwise makes available assistance in the form of:

- (a) Funds; or
- (b) Services or Federal personnel; or
- (c) Real and personal property or any interest in or use of property, including:

(1) Transfers or leases of property for less than fair market value or for reduced consideration; and

(2) Proceeds from a subsequent transfer or lease of property if the Federal share of its fair market value is not returned to the Federal Government.

*Normal operation* means the operation of a program or activity without significant changes that would impair its ability to meet its objective.

*Recipient* means any State or its political subdivision, any instrumentality of a State or its political subdivision, institution, organization, or other entity, or any person to which Federal financial assistance is extended, directly or through another recipient. Recipient includes any successor, assignee, or transferee, but excludes the ultimate beneficiary of the assistance.

*Statutory objective* means any purpose of a program or activity expressly stated in any Federal statute, State statute or local statute or ordinance adopted by an elected, general purpose legislative body.

*Subrecipient* means any of the entities in the definition of "recipient" to which a recipient extends or passes on Federal financial assistance. A subrecipient is generally regarded as a recipient of Federal financial assistance and has all the duties of a recipient in these regulations.

*United States* includes the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, Wake Island, the Canal Zone, the Trust Territory of the Pacific Islands and all other territories and possessions of the United States. The term "State" also includes any one of the foregoing.

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### STANDARDS FOR DETERMINING AGE DISCRIMINATION

#### § 7.920 Rules against discrimination.

The rules stated in this section are limited by the exceptions contained in §§ 7.921 and 7.922 of these regulations.

(a) *General rule:* No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving Federal financial assistance.

(b) *Specific rules:* A recipient may not, in any program or activity receiving Federal financial assistance, directly or through contractual licensing, or other arrangements, use age distinctions or take any other actions which have the effect, on the basis of age, of:

(1) Excluding individuals from, denying them the benefits of, subjecting them to discrimination under, a program or activity receiving Federal financial assistance; or

(2) Denying or limiting individuals in their opportunity to participate in any program or activity receiving Federal financial assistance. The specific forms of age discrimination listed in paragraph (b) of this section do not necessarily constitute a complete list.

#### § 7.921 Exceptions to the rules against age discrimination: Normal operation or statutory objective of any program or activity.

A recipient is permitted to take an action, otherwise prohibited by § 7.920, if the action reasonably takes into account age as a factor necessary to the normal operation of the achievement of any statutory objective of a program or activity. An action reasonably takes into account age as a factor necessary to the normal operation or the achievement of any statutory objective of a program or activity, if:

(a) Age is used as a measure or approximation of one or more other characteristics; and

(b) The other characteristic(s) must be measured or approximated in order for the normal operation of the program or activity to continue, or to achieve any statutory objective of the program or activity; and